

6. (Amended) The reticle sorter of claim 1, wherein the inspection system includes a video camera coupled to a display device for presenting a visual image of a reticle.
7. (Amended) The reticle sorter of claim 1, wherein the inspection system includes a tool for measuring an amount of dust on a reticle.
8. (Amended) The reticle sorter of claim 1, wherein the inspection system includes a tool adapted for detecting flaws in a reticle pattern.
9. (Amended) The reticle sorter of claim 1, further including means for moving each of the cassettes from the input port to one of the one or more bays.

Remarks

The Office Action dated September 11, 2001, indicated that claims 1-12 and 19 stand rejected under Section 112, second paragraph as being indefinite and the scope being unascertainable; claims 1, 3, 5, 7, 9 and 19 stand rejected under Section 102(b) as being anticipated by *Iizuka* (U.S. Patent No. 4,999,671); claims 1, 3, 5, 7, 9-12 and 19 stand rejected under Section 103(a) as being unpatentable over *Iizuka* in view of *Sussman et al.* (U.S. Patent No. 5,664,926); claims 2 and 8 stand rejected under section 103(a) as being unpatentable over *Iizuka* and *Sussman et al.* as applied to claims 1, 3, 5, 7, and 9-12 above and further in view of *Umatate et al.* (U.S. Patent No. 5,243,377); claims 4 and 6 stand rejected under Section 103(a) as being unpatentable over *Iizuka* and *Sussman et al.* as applied to claim 1, 3, 5, 7 and 9-12 above and further in view of *Rosenquist* (U.S. Patent No. 6,082,949).

Claim 1 has been amended to include the subject matter of claim 5. The amendments to claims 6-9 are provided to track now-amended claim 1.

Applicant respectfully traverses the Section 112(2) rejection. As discussed previously in the Appeal Brief, the terminology "adapted for" is accepted terminology in PTO practice in defining an element of the claimed invention in functional terms. See M.P.E.P. §2173.05(g). The use of "adapted for" is supported by case law as being proper terminology for defining attributes that a structural element possesses. *In re Venezia*, 530

F2d. 956, 189 USPQ 149 (CCPA) 1976) (“members adapted to be positioned”... serve to precisely define present structural attributes of interrelated component parts of the claimed assembly.”) This may be distinguished from the discussion of the term “adapted” in *In re Hutchison* where “adapted” is used in the introductory clause, or preamble, of the claim, contrary to the present application where “adapted” is used within the claim to define interrelated component parts of the claimed invention. According to long-standing patent law, language used in the preamble does not constitute a limitation unless the language breathes life and meaning into the claim. *See, DeGeorge v. Bernier*, 768 F.2d 1318, 226 USPQ 758 (Fed. Cir. 1985) (Generally, the preamble does not limit a claim unless preamble limitations are necessary to give meaning to the claim and properly define the invention.) Thus, it would appear that *In re Hutchison* is distinguished because the claim at issue in that case did not include “adapted” in the body of the claim.

In addition, the terminology rejected by the Examiner has become well accepted in PTO practice in connection with functional claiming in “means for” claims under 35 U.S.C. §112(6). *See* M.P.E.P. §218; *DeGraffenreid v. United States*, 20 Ct. Cl. 458, 16 USPQ2d 1321 (Ct. Cl. 1990) (“force generating means adapted to provide...”). Further, a sampling of the U.S. Patent Office’s own database, from 1991 to 2001, indicates that the term “adapted” has been used in the claims of over 162,000 issued patents. Finally, it is well recognized in Patent Office practice that it is not inherently wrong to define some part of an invention in functional terms. *See* M.P.E.P. §2173.05(g) (“Functional language does not, in and of itself, render a claim improper.” *See, In re Swinehart*, 439 F2d. 210, 169 USPQ 226 (CCPA 1971)). In view of the foregoing, the “adapted for” terminology is proper claim terminology, does not render the claimed invention indefinite, and the rejection should be withdrawn.

In this instance and as with the numerously listed above instances the term “adapted for” is an expression that ties the structure to the function. Under Section 112(6), the term “means for” invokes a statutory interpretation with respect to the relationship between the recited structure and the associated function. According to the M.P.E.P., generally recited structure (such as “mechanism for”) also invokes Section 112(6) and is to be construed as a “means plus function” term. Recent case law has

introduced another component into the equation; *i.e.*, use of “means for . . .” presumes that the scrivener intended to invoke Section 112(6), and according use of “means for . . .” language presumes that the scrivener did not intend to invoke Section 112(6). Relating to Applicant’s claim 1, the alternative terms “a bay for” and “a bay adapted for” could be viewed as intending, respectively, to invoke, and to not invoke, Section 112(6). Thus, based on existing law and claim interpretation rules, there could be a significant difference between “adapted for” and “for.”

Applicant respectfully traverses the Section 102(b) rejection as the cited ‘671 reference does not teach or disclose all aspects of the claimed invention. The present invention includes, for example, in claim 1, “an inspection system, coupled between the one or more bays.” The cited Figure 6 of the ‘671 reference clearly shows that the inspection station P5 is located outside the sorter identified at P2 and P3. The failure of the ‘671 reference to teach or disclose all aspects of the claimed invention renders the Section 102(b) rejection improper, and Applicant requests that the rejection be withdrawn.

With respect to the Section 103 rejections, Applicant respectfully traverses. The ‘671 reference fails to teach or disclose all aspects of the claimed invention alone, as discussed above, and in combination with the ‘377 reference. The measuring devices of the ‘377 reference are “used for measuring the line width of a resist pattern . . . or measuring the coordinate position of a specific resist pattern” (col. 4, lines 29-32). In contrast, the instant invention includes, for example, in claim 8, an inspection system adapted for detecting flaws in a reticle pattern. The measuring tools of the ‘377 reference appear to be directed to surface measurements and not for defect inspection. The cited combination does not present a *prima facie* case of obviousness for failing to teach or disclose all aspects of the claimed invention. Applicant submits that the rejection is improper and should be withdrawn.

Applicant submits that the combination of the ‘671 reference with the ‘949 reference also fails to teach or disclose all aspects of the claimed invention. The video camera monitoring of the cited portion of the ‘949 reference appears to be directed to monitoring the placement of wafers and not for detecting defects as taught by the instant invention. Applicant requests that the rejection be withdrawn.

Further, proper motivation is not presented for the asserted combination. The claws of the '926 reference when combined with the '671 reference would destroy the '671 reference's object of facilitating the handling of the reticles as described in the '671 reference at col. 2, line 57 through col.3, line 21 and column 7 lines 20-33. *See, In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984); (A Section 103 rejection cannot be maintained when the asserted modification undermines purpose of main reference.) Also to the extent that certain types of "claws" are well known, a Section 103 rejection cannot stand without proper motivation for such assertion or combination. Applicant requests copies of any references relied upon by the Examiner for such assertions for further review and response.

In view of the remarks above, Applicant believes that each of the rejections has been overcome and the application is in condition for allowance. Should there be any remaining issues that could be readily addressed over the telephone, the Examiner is encouraged to contact the undersigned at (651) 686-6633.

Respectfully submitted,

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Attachment for S/N 09/383,508 (AMDA.389DIV1)

Below are the changes reflected in the claims.

1. (Amended) A reticle sorter coupled between a reticle storing system and one or more photolithography exposure tools, comprising:

one or more bays adapted for holding a cassette having slots for reticles; [and]
a sorting system adapted for retrieving the reticles from and inserting the reticles into the slots in order to sort the reticles within the cassette; and

an inspection system, coupled between the one or more bays and an input port of the reticle sorter, for inspecting a characteristic of each reticle.

6. (Amended) The reticle sorter of claim [5] 1, wherein the inspection system includes a video camera coupled to a display device for presenting a visual image of a reticle.

7. (Amended) The reticle sorter of claim [5] 1, wherein the inspection system includes a tool for measuring an amount of dust on a reticle.

8. (Amended) The reticle sorter of claim [5] 1, wherein the inspection system includes a tool adapted for detecting flaws in a reticle pattern.

9. (Amended) The reticle sorter of claim [5] 1, further including means for moving each of the cassettes from the input port to one of the one or more bays.